

## Part B – Please use a separate sheet for each representation

### 3. To which part of the Local Plan does this representation relate?

Paragraph

See text

Policy

Policies Map

### 4. Do you consider the Local Plan is:

Please tick as appropriate

4 (i) Legally Compliant

Yes

☐

No

☒

4 (ii) Sound\*

Yes

☐

No

☒

4 (iii) Complies with the Duty to co-operate

Yes

☐

No

☒

\*If you have entered No to 4 (ii), please continue to 5. In all other circumstances, please go to question 6.

### 5. Do you consider the Local Plan is unsound because it is not...:

(i) Justified

☐

(ii) Effective

☒

(iii) Positively prepared

☒

(iv) Consistent with National Policy

☒

6. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments

ALL Comments are directed to the Silica Sand Site Selection Process

A. PROCESS SOUNDNESS

SEE ATTACHED.

(Continue on a separate sheet if necessary)

## 1st Complaint Lack of observance of obligated actions

There is a legal duty (Norfolk Minerals and Waste Local Plan, Infrastructure and Development Select Committee, 28 May, 2022, pp165-212) under section 16 of the Planning and Compulsory Purchase Act, 2004, to prepare and maintain a Minerals and Waste Development Scheme. The scheme must specify the development plan documents (DPDs) that the County Council will produce, their subject matter, geographical area and their timetable for the preparation and revision of the DPDs. The Council is required to periodically review these documents and keep them up to date.

There is also a legal duty under section 18 to prepare a Statement of Community Involvement which “*sets out who, how, and when groups and individuals are engaged in this planning process.*” In addition, the Town and Country Planning (Local Planning) (England) Regulations, 2012 (as amended) also require a Statement of Community Involvement to be reviewed every 5 years.

The process of producing the Minerals and Waste Local Plan must be carried out in accordance with the above legislation, as well as with other relevant planning legislation. The Local Plan is considered a Major Planning Application under the Town and Country Planning (Development Management Procedures) (England) Order, 2015.

The best reviews of this complicated process are perhaps to be found in the documents, (i) Minerals Site Specific Allocations Development Plan Document (DPD) - Single Issue Silica Sand Review: Sustainability Appraisal Report - Non-technical Summary, (ii) N.C.C. NMWLP Preferred Options, July 2019, and (iii) Minerals and Waste Local Plan, N.C.C. Infrastructure and Development Committee Agenda, pp.165-212, May 25, 2022.

### **The comments in these pre-submission consultation documents are principally concerned with the silica sand extraction site selection process.**

The NMW Local Plan silica sand programme is a complex, multifaceted process that has been specifically designed to establish new sources of silica sand to supply a formal Norfolk obligation to supply approximately 800,000 tons of silica sand per annum for the period 2022-2038. The sand is to be transported to the Sibelco UK Ltd facility in Leziate for processing. This is the first time these specific procedures have been used and therefore the Norfolk Minerals and Waste Local Plan Publication, May 2022, has to be assessed in its entirety - for “*soundness*” as well as for “*legal compliance*” regarding both the functionality and integrity of the entire package.

I suggest that the document fails to demonstrate “*soundness*” for the following reasons

1. The evidentiary foundations fall down at certain crucial points as to their robustness and the dubious credibility of evidence;
2. Problems are being introduced by not asking the appropriate questions that need to be considered, notably with regard to the disregard of certain public interests and the failure to properly account for cumulative mining blight in West Norfolk after several hundred years of sand mining.

3. A final proposal has been introduced at the end of this process, without adequate justification, that appears inconsistent with national policy.

There is questionable "*legal compliancy*" within crucial aspects of (a) the Statement of Community Involvement, (b) the Silica Sand Safeguarding Procedures, and in (c) the absence of a regional assessment of cumulative impacts. Basic tenets within the National Planning Policy Framework are being overlooked. These will be discussed separately in additional submissions

In effect, after a 13-year process, the Local Plan involves a manifest failure to identify sources to supply a shortfall of more than 10M tons of silica sand up to 2038. Instead, the Local Plan declares victory, fundamentally changes the rules, and gives responsibilities to Sibelco and landowners to create the necessary blizzard of documentation necessary to document a poorly explained and novel "*criteria-based locational policy*," with applications to be submitted by the proponents directly to the District Planning Processes, apparently without collaborative involvement. It must be noted that the public are permitted little role in the Planning procedures, and the absence of public consultation in this venue appears to seriously disregard principles of process equity. The District Council Planning processes are being asked to deliberate exclusively on a slew of mineral licensing issues, while, at a minimum, the public interest matters have not been settled and have little standing in this venue.

What constitutionally is a collaborative process between the Mineral Planning Authority and the silica sand applicants, with the presumption of sustainable development, has been turned on its head, owing to the Plan (as conducted) not identifying appropriate sources of silica sand. There is clearly a need to undertake a root and branch analysis to investigate how this process can be adapted to provide equitable solutions and to identify potential silica sand sites within the current regulatory framework. It is a fairly logical assumption that N.C.C. Minerals and Waste may have proposed this solution as they perceive that the District Planning Procedures offer an environment in which they have more effective influence. If correct, this device would be a proposal to undermine democratic safeguards inherent in the regulatory processes. What is required is a far more rigorous application of the protocols, with sustainability and the presumption of sustainable development, economic, social, and environmental, as guiding lights.

Instead, the can is kicked on down the road straight into the Planning Process. Moreover, there appears to be no consideration given to the strong possibility that the Planning Procedures are ill-suited to deal with the complexity and volume of less-regulated assessments. Might Planning become overstretched and generate increased process appeals to the Minister of State? The Planning Procedures are ill-equipped to deal with issues that should have been identified and managed early in the Plan. Inflexibility and poor governance may result. For example, the Planning Process permits no possibility of public representation when, as currently, this has been severely curtailed over the last five years by the manner in which the Norfolk Statement of Community Involvement has been interpreted - undermining the National Planning Policy Framework, paragraph 16(c) in which "*early, proportionate and effective engagement between planmakers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees*" is urged. Note that communities head the list.



I suggest that such a fundamental change to the Minerals and Waste Development Scheme requires additional representational and public consultation on this consequential procedural change. There would not normally be such an opportunity had the process proceeded along the original direction of the Plan (paragraph 3.1.1.2 of the N.C.C. Statement of Community Involvement, 2022).

Examples of the subject areas that have been poorly considered in the Local Plan to date, and which may therefore become even more problematic in the Planning Procedure venue, include major deficiencies in considering the legitimate, site-specific public land usage interests. The Norfolk Core Strategy and Minerals and Waste Development Policies DPD, 2011, for example, fails to consider that the public could ever be a legitimate land-usage stakeholder. In fact, this public interest issue is not mentioned in any silica sand document from the inception of this process in 2010 until the 2022 final NMWLP document. Other potentially troublesome issues include: inequities in the silica sand safeguarding procedures; the failure to update and assess historical public rights of way in contravention of responsibilities under the Wildlife and Countryside Act, 1981; the failure to consider climate change regulations and procedures in proposals that involve the destruction of woodland; and with regard to the urgent national and county requirements for reforestation. On a process matter, it has become clear that uncomfortable truths are being suppressed in the N.C.C. process and that there is a systematic problem in a frequent failure to answer the submitted representations, even to the abbreviated selected comments. These issues, as they affect the silica sand site selection process, will be described in separate submissions.

How this undertaking required of Sibelco or by individual land owners to replace the coordinating role of the surveying authority and assemble the considerable cases required to make a planning application on their own - for each candidate site - is not explained. The additional cost implications are unassessed. The process deficits are unexamined, and the process integrity is untested. Furthermore, how this approach is to be integrated into the Minerals and Waste silica sand Local Plans going forward is not developed. The process failure in avoiding the collaborative role to fully investigate and promote silica sand sites, placing the sole responsibility on the proponent corporations or individuals is contrary to the duty to cooperate.

The National Planning Policy Framework (NPPF) states that Local Plan planning process should be “collaborative” and “positively prepared” with the lead from planning authorities, “including working proactively with applicants to secure developments that will improve the economic, social, and environmental conditions.” I submit that this new structure of so called, “criteria-based policy” (as if the NPPF-based policy constructed between 2010 and 2022 was not!) is contrary to provisions of the National Planning Policy Framework. The National Planning Practice Guidance/ Minerals Specific Policy MP2.10 states that mineral planning authorities should plan for the steady and adequate supply of minerals in one or more of the following ways, in order of priority: designating specific sites liable to be acceptable in planning terms; designating preferred areas in areas with known mineral resources within which planning permission might be reasonably anticipated; and designating areas of search where details are less certain. N.C.C. has fallen back on an unnecessary device to help solve a problem, which to some extent is of their own making, and which is less likely to provide sound decisions as the statutory-based Plan. The Minerals Planning Guidance document, 2014 (page 7) states, “Designating Specific Sites in minerals plans provides the necessary certainty on when and

*where development may take place. The better the quality of data available to mineral planning authorities, the better the prospect of a site being designated as a Specific Site.”* Perhaps the implications behind this statement have been overlooked.

### **Avoidance of Public Accountability and Inaccuracy of MPA Responses to the Consultation Submissions:**

The elicited contributions from the two rounds of “consultee” contributions and from the two rounds of public “commentaries” are reproduced in a variable, abbreviated format in the May 2022 document, the NMWLP Review Statement of Consultation. Given the selective nature of the issues reported, it is surprising how often they are disregarded or misrepresented in the attached MHA commentary. The odd infelicity is of little significance, but this occurs on an unacceptable number of occasions. It is regrettable that such instances have not been edited from the document as it calls into question whether this reflects internal agendas?

It is difficult to be certain of the implications, particularly as the public contributions, in particular are presented in a manner which is particularly difficult to interpret. Action items are usually presented as brief, aggregate comments from which it can often be observed that important critique is omitted. Specific aspects, including such examples, are discussed in greater detail elsewhere. Here, a brief listing is provided limited to discussions of minerals process and of individual site considerations. The principal source (as per MPA) of the action item(s) is stated, with headline subject and page number given. Elsewhere, it is shown that public comments are given far less weight than those of ‘official’ consultees, and there is little MHA response that can be shown to be directly associated with public submissions. The list presented is not comprehensive as there are undoubtedly missing examples, on a random basis.

Page 44. Natural England request that sites involving agri-environmental schemes consult N.E. early on. The MHA replies, No Action Required, as it does not affect them – Misconstrued.

Page 47. Historic England request formal Heritage Impact Assessment on mineral sites under consideration. The MHA did not explain why a “proportionate level of assessment” had been preferred.

Page 47. Historic England: Comments on policy MP3 overlooked.

Page 47. Historic England: Comments on the un-representation of non-designated heritage assets, and regarding the removal of areas unsuitable for extraction from the safeguarded map. These are ignored as the sites are reported removed from consideration. The two issues are unconnected with the site withdrawal.

Page 48. Historic England support improvement of presentation by use of bullet points. The MPA report that bullet points are replaced with lower case letters. These remain rare in the cumulative document.

Page 49. CATTS: “NCC’s M&WLP Vision plus Policies WP1 and WP2, Objectives WS0.2.4.6 and MSO 2.3.8 and 1 (are) not sound because (they) make no mention or plan for the recycling of glass before extracting raw materials”. The MHA answer fails to answer the questions.

Page 50. Individuals : “This plan is not compliant with DEFRA’s 25-year Plan, with BEIS Clean Growth Strategy, or NPPG refs 27-012, 013, 017, and 045- 201403, or NPPF guidance to look to recycle before extraction of raw materials.” No comment was offered by the MPA.



Page 50. Individuals: *"NCC is failing to recycle before extracting raw materials and therefore the plan is not sound and NCC fails their own sustainability objectives SA1, SA3, SA4, SA5, SA6, SA8, SA9, SA11 and SA13 on page 9 of the Sustainability Appraisal Report – Part A - Scoping (Oct 2015) and pages 15-16 of Part B (Jun 2019)."* No comment was offered by the MPA.

Page 51. Individuals x2: In total, 13 bullet points are recorded from two submissions. Statements are reported - without the supporting evidence provided. None of the 13 are answered amongst the circumlocutions. Among the latter was a statement that the consultation process exceeded the requirements of Statement of Community Involvement. This is challenged elsewhere, but the failure even to mention the extensive long-term public utility of Shouldham Warren in any of the formidable collection of study documents over the period 2010 – May 2022 is a failure to respond to the interests of the West Norfolk public. This implies a major infringement of this informing document.

Page 52. The MPA states, The MPA claims to *"set out full (Consultation) Feedback Reports for Each (Options cycle) stage."* This was untrue. Only a flimsy and unaccountable version has been offered for the Preferred Options stage. This is another major infraction of the process set out in the Statement of Community Involvement. In addition, the latter document was delayed for three years despite the hollowness of the MPA response, presenting the MPA response to the public concerns at the last possible moment after a 12-year process.

Page 52. "The MPA state, *"...an appropriate method to signpost consultations is to supply parish councils... with the details of consultations, so that they can cascade information to parishioners in the way that they consider most suitable."* This expectation was an abject failure, and still NCC insist that this methodology is retained in the Statement of Community Involvement. It remains the NCC and MHP responsibility to fully inform the public (NPPF), not a parish clerk unversed in matters of major regional planning. The MHP accepted responsibility of informing only those residents living within 250m of a site boundary, leaving the vast majority of public interested parties uninformed. Is this a casual error or a deliberate attempt to disengage from most of the public?

**7. Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above.** (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

*(Continue on a separate sheet if necessary)*

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change. There will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

**After this stage, further submissions will only be at the request of the inspector, based on the matters and issues he/she identifies for examination.**

## Modifications – PINS Submission 1-B

Silica Sand is a mineral of national importance. The Norfolk distribution of silica sand is located in an approximately linear north-to-south band between Heacham and Methwold and extending to within 1-2 miles of Kings Lynn. It is no more than a few miles wide at its greatest width. After a 12-year Plan-led process starting in 2010, only 4 million tons of silica sand of permitted reserves have been identified from an Initial Options sequence between 2015 and 2019, and a Preferred Options sequence from 2019-2022. There remains a deficit of approximately 10 million tons for the period to 2038. The Norfolk Minerals Site Specific Allocations DPD was found to be legally compliant in 2017, yet only one new silica sand site has been identified in the interim. This is a complex process and reviews of specific factors must be the foundation of any valid proposals to revise NMWLP (2022) protocols.

It is a matter of concern that Minerals and Waste have concluded in the Norfolk Minerals and Waste Local Plan (NMWLP) that “*there are no (available) specific sites or preferred areas suitable to allocate for silica sand extraction,*” primarily due to the 13 km-radius bird strike safety zone around RAF Marham; RAF Lakenheath; and RAF Mildenhall; the North Coast AONB; the impact risk zone for the Wash SSSI; the hydrogeological catchment around Roydon Common SSSI and Dersingham Bog SSSI (recently supported by 1.5 km buffer zone); and designated open access areas at Shouldham Warren and East Bilney Wood. It is relevant to note that the selection criteria adopted (NMWLP Single-issue Sand Review, 2017, p. 3-4) abandoned sites that involved almost any of the major statutory constraints. This is possibly a logical conclusion given the processes stipulated in the NMWLP, 2022, notably the fact that almost all the proposed AOS were within the RAF Marham bird-strike safeguarding radius.

The NMWLP 2022 asserts that virtually the entire cohort of sites allocated in the Preferred Options silica sand site selection process are thereby cancelled. They allege, without specific evidence, that this failure was because of because of alleged inherent defects in the area of search methodology (NMWLP 2022, policy MP 2.10) recommended by the National Planning Policy Framework. This decision is just stated, and there is no attempt made by N.C.C. to explain their judgement, other than acknowledging that their process has failed! The NMWLP 2022 implies that it is impossible to identify silica sand AOS under the RAF Marham bird-strike safeguarded area or within the North Norfolk Coast AONB. The failure may be in not collaboratively selecting potential mining sites, as recommended by the NPPF, 2012. It should be recognized that a significant part of the North Park Quarry and the Preferred Area allocated as an extension to the existing quarry, all lie within the Surrey Hills AONB.

There is a remarkable absence of clarity and accountability in this decision, and which is eminently inappropriate. The MHA selected the sites, their size and boundaries, often mistakenly selected very large AOS (up to 1,014 hectares in size) which are then compounded by a number of cautionary factors. N.C.C. also have a contradictory policy (MPSS1.m, page 77, NMWLP, 2022) of requesting sites within easy reach of the Leziate processing factory, by pipeline, conveyer, or internal haul route, and avoiding the public road system where possible. This naturally has the consequence of concentrating proposals in areas already badly scarred from ancient and active mining sites in areas close to the River Nar medieval monastic landscape, to



the River Nar core valley and SSSI, and within the RAF Marham bird-strike restriction zone. Much of the silica sand safeguarded area therefore 'appears' underinvestigated.

A special exemption can be applied for in confounded areas under exceptional circumstances, involving careful site selection among other factors. Under these specific circumstances, the normal expectation would be that various safeguarding assessments and the mitigation of impacts would be obligated, and which can sometimes provide sufficient mitigation support for a successful application. The unknown variables here are in identifying just what is "*acceptable mitigation*," as the NMWLP documentation leaves these details to the district planning procedures, with little quantitative guidance provided. More contentiously, N.C.C. also abandon three other AOS (AOS F, I, & J) comprising 61 hectares, 47 hectares, and 23 hectares, respectively. They were cancelled with the sole explanation that "*they would be too fragmentary to form an appropriately sized area within which to find a potentially viable silica sand extraction site*." It is not explained why this was not foreseen. No assessments of potential yield have been forthcoming, so that the factors in these decisions are difficult to judge.

It is not clear whether it is being claimed that all sites within the entire silica sand safeguarded area present too great a difficulty to support Areas of Search as a feasible method of delivering silica sand sites, or whether this statement should be limited to the Leziate Beds, the historical preferred site of Sibelco UK, the owner of the Leziate processing factory. The Plan does little to amplify the implications of these statements, other than that to propose an unproven ploy (in this context), replacing the NPPF-guided process with direct applications through the district planning process accompanied with at least 18 dedicated assessments, statements, or plans, as specified by statute (described above). There are no explanations and justification for this untested proposition other than the failure (with a single exception, MIN 40 at East Winch) of N.C.C. over at least 12 years to identify silica sand extraction sites away from Mintlyn.

Immediate problems include the absence of recognition of local public concerns and the failure to recognize recreational public land-use issues. As we shall see later, the NMWLP planning has almost completely ignored the interests of local and regional communities throughout the 13-year history of this Plan. The NMWLP document, 2022, under review, furthermore, has failed to give due recognition and has essentially suppressed the submitted views of 4,500 local citizens who submitted statements that they systematically used the Shouldham Warren area (AOS E and SIL 02) for recreation as an open access site. It will also be shown that worrisome facts that are inconvenient to the MHA have been deliberately suppressed.

- (1). A **root and branch analysis** might start here, as all these confounders were established well before 2013 and should by rights have been largely predictable, if this is a full statement of the facts. Instead, a "*criteria-based policy*" is introduced, avoiding further rounds of "consultations": and in conflict with the guidances of the National Planning Policy Framework - by replacing the collaborative Plan-led process, so laboriously assembled, with direct, unaided, specific applications to the district Planning Procedures by the silica sand mining companies and/or landowners - as described in the first segment. It is pertinent that there has been no discussion as to whether this novel approach offers any benefits with regard to the former collaborative structure and no trial event.. Indeed, N.C.C. offered considerable expertise to the conventional Plan-led process that would now 'seem' to be less

available to the crucial site selection process. N.C.C. Minerals and Waste apparently propose to step back somewhat from their application support responsibilities in the Norfolk silica sand Local Plan. How this proposal is supposed to work in future cycles is not codified.

The Local Plan spatial strategy documents emphasise the first statement contained in the National Planning Policy Framework paragraph 210(f), but entirely disregard its second undertaking. Paragraph 210(f) reads, "planning policies should *set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality*" (my emphasis). This is given additional weight by NPPF paragraph 211(b) which states, "*In consideration of proposals for mineral extraction, planning authorities should ensure that there are no unacceptable adverse effects on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or a number of sites in a locality.*" In a condensed area that has been subject to sand and gravel mining for several hundred years, and to silica sand mining for 150 years, this is a cogent consideration for parts of West Norfolk. However, accumulated blight gains no mention in any of the cumulative silica sand documents, nor in the final Local Plan; these discuss solely the local simultaneous intrusion of active mining sites. It is also omitted from the Local Plan silica sand Minerals Specific Policies. Land use in West Norfolk over time has been subject to multiple other governmental intrusions. This is an unidentified regulatory issue and will be explored in a separate submission.

- (2). **Insights may be gained from the consideration of the allotted sites and from the proposed sites that failed examination**, although it must be realized that many individual factors may be amenable to mitigation. The two allotted sites in the NMWLP are SIL 01 at Mintlyn South, Bawsey, with a reserve of 1.1 M tons, and MIN 40, Land East of Grandcourt Farm, East Winch, containing 3 M tons of silica sand. Both are extensions of existing Sibelco sites and are within the RAF Marham bird strike area, and mitigation measures will be required. SIL 01 is 700 metres from the Leziate processing plant and the mineral will be transferred by conveyor. MIN 40 is 1.8km from the Leziate plant and transportation will involve an established internal haul route.

The historic **SIL 01** landscape character is of heritage mineral working. Other particular considerations for the SIL 01 were for adjacent listed buildings, scheduled monuments, two County wildlife sites, hydrogeological concerns, and restraints on dewatering owing to Gaywood River and Middleton Drain catchments. Restoration of SIL 01 was proposed primarily to a lake with wildlife habitat (acid grassland/heath/ inland dune) woodland, and scrub - with recreational opportunities.

**MIN 40** is proposed on grade 4 farmland at the western boundary of East Winch village with numerous sensitive receptors within 250 metres, the closest at 84 m. and the nearest listed building only 50m away, across the A-47! Mitigation will be required with sightline bunding and screening, for potential impacts on the East Winch Common SSSI and two adjacent County



wildlife sites, restitution of a restricted byway, and protection for the Mintlyn Stream, a Water Framework Directive Body, which is crossed by the haul route. Restoration of MIN 40 is proposed primarily to a lake, with wildlife habitat (acid grassland/heath/inland dune).

**AOS A** covered 328 hectares located in a flat, agricultural drained coastal marsh in western Ingoldisthorpe, Snettisham, and Dersingham, located to the east of an area of previous mineral workings which is now part of a bird reserve, and south of Snettisham Common which contains a previous silica sand pit. The three villages were all 250 metres from the site, which was 20 km from the Leziate Plant by road. The most significant potential problems were with the Wash Ramsar and Wash SAC habitat regulations and with three adjacent county wildlife sites. Another significant concern was the River Ingol which, as a Water Framework Directive waterbody, crossed the site and would require assessments for potential impacts and appropriate mitigation. The area contained priority geomorphological features and potential impacts to geodiversity. Over half the site was within the Tidal hazard extent. The local Councils were concerned over difficulties of screening and the potential impacts on tourism. The AOS was withdrawn.

**AOS D**, Land in the vicinity of West Bilney Wood, comprising 109 hectares. Roughly half is Forestry Commission woodland in West Bilney Woods which is open access land, a significant impediment. Much of the rest is grade 3 agricultural land, with fen and open inland marshes in the south. There are adjacent old and current silica sand workings and a sand and gravel allocation. The site is within East Winch and Pentney, and 9km from the Leziate processing plant by road. The site is within the River Nar valley concentration of medieval religious institutions and so there are important archaeological concerns. Pentney Abbey is 400 metres from its southern boundary. There is a County Wildlife site within the AOS, and two others close by. The River Nar SSSI and East Winch Common SSI would be vulnerable to water level changes, as would the County Drain, a Water Framework Directive waterbody, running through the site. It is also within the bird-strike radius of RAF Marham. The previously unrecognised open access land in West Bilney wood and its recreational importance appears to have played an important role in the abandonment of AOS D in the initial consultation.

**SIL 02**, Land in Shouldham and Marham was established as a Preferred Area with an estimated resource of 16 M tons. The site lay just off the NW corner of RAF Marham. As a lake was to be the resultant landform, there was anxiety from the Defence Infrastructure Organisation over a potentially enhanced birdstrike risk. This was the primary cause of its 2016 withdrawal. If a full SIL 02 analysis exists in the cumulative documents, I am unable to find it. Other significant issues were the potential hydrogeological risks to the River Nar, the River Nar SSSI, a water Framework Directive watercourse, and the high exposures of the Pentney Priory Gatehouse and associated protected buildings and also the motte and bailey Wormegay Castle and several Wormegay conservation area buildings. An Historical Environment Impact Assessment report for designated heritage assets for both SIL 02 and AOS E was published in April 2019.

**AOS E**, Land to the north of Shouldham, was an allotted site in the initial consultation phase. With the demise of SIL 02, a large section of SIL 02 was added onto AOS E to form a revised AOS E. The total area of AOS E was increased from 815 hectares to 1,014 hectares in size! AOS of colossal size are very troublesome and should be specifically proscribed as one consent can more easily lead to several, and the larger the AOS, the more contentious the regulatory issues

may become In the NMWLP document, Main Modifications and Additional Modifications, July 2017, p.16, it states, "*AOS E is significantly larger than the area of extraction to meet the silica sand shortfall to the end of the Plan period.*" i.e. x 25! It continues, "*therefore, a number of alternative extraction locations are likely within the area of search...*" This is not "*taking each application on its merit,*" but would almost certainly have guaranteed a continuing and repetitive destructive cycle over this unique and sensitive site, an artifice to create a long-term hegemony. There is no reason why large AOS cannot be reduced to a number of component parts. AOS E did not survive the rather secretive post-Preferred Options Consultation (Autumn 2019) sequence, apparently quoting the adjacency of RAF Marham, the then new N.C.C. policy on the climatic importance of woodland, and its open access status.

AOS E therefore shared many of the features of SIL 02. Moving the site one mile further to the west did not significantly alter the risks of bird strike at RAF Marham. Indeed, the final AOS E was 2.6 times larger in size than the SIL 02 site had been. It lies adjacent to areas of previous and current mineral workings and close to a sand and gravel allocation between the villages of Marham, Shouldham, Wormegay and Shouldham Thorpe. It contains almost the entire 372-hectare-site of Shouldham Warren, a Forestry Commission mixed forest that is managed together with the adjacent West Bilney Woods plantation, and which provides a unique, combined wildlife habitat for the region. The remainder of AOS E is mainly grade 3 and 4 agricultural land with an inland fen County Wildlife site and adjacent to two other County sites. There are numerous protected, rare, or declining species on AOS E, including Nightjar Woodlark, and Stone Curlew.

The Warren is a transitional landscape at the fen edge and provides variable terrain and landscape and has been used recreationally as an open access site for two to three generations - by tens of thousands of people per annum, both local and regional, with a large variety of pursuits. It is the gem of rural West Norfolk recreation. These facts are well known to N.C.C., yet throughout the 13-year process of preparing the NMWLP, 2022, N.C.C. failed to mention this public land-use issues in any of its cumulative documents and was only mentioned, in passing as an open access area, for the first time in the final Local Plan document. Additional evidence shows this to be a deliberate avoidance of the public interests and not an oversight (see below)

AOS E lies within the medieval monastic landscape close to Pentney Priory, Shouldham Priory, Marham Abbey, five listed buildings, several monuments within 300m, and Wormegay motte and bailey castle is in clear view. AOS E lies within the Core River Valley of the River Nar and is close to the River Nar SSSI (N.C.C claim in the Statement of Consultation, May 2022, page 211 that AOS E is not in the Core River Valley, but the map on p.99 of the NMWLP Local Maps document, December 2017 appears to show that the entire area is part of the River Nar core valley. The River Nar hydrogeology and multiple Water Framework Directive water courses would require careful management. The primary reasons for the withdrawal of EOS E are believed to be a combination of its closeness to RAF Marham and the forested nature of much of the site. The systematic public land usage preceded the 2006 formulation of mineral safeguarding - by two or three generations. The purpose of mineral safeguarding is to protect mineral sites from other planning consents, but Shouldham Warren had had extensive public open access land use for very many years already, and was already prioritised. This had been recognized by not being included in the safeguarding map, although this fact never appeared in the Plan cumulative



documents. The current N.C.C. proposal for direct applications to the Planning Process could presumably permit reapplications or modified applications to involve Shouldham Warren without the ability to provide a systematic public response. One fact that is yet to be properly considered was the proposal to pipe 800,000 to 900,000 tons of silica sand per annum from SIL 02 the 15 km to Leziate; this would presumably have involved huge volumes of water, but where would this water have come from?

**AOS F**, Land to the North of Stow Bardolph. The allocation consists of two parcels of land of approximately 31 and 30 hectares, respectively within the parishes of Runcion Holme and Stow Bardolph on either side of the A-10. The individual sites are 400m south of South Runcion and 250m north of Stow Bardolph, in the wider setting of parkland and estates related to Stow Hall (now demolished) and Wallingford Hall. Transportation to the Leziate Plant, 17 km away, would be by road. The main conflicting factors appeared manageable. There were two County wildlife sites close by, including a series of mesotrophic lakes, as well as three hydrological catchments within 500-1,000 m that could be vulnerable to changes in the watertable from extraction below this level and/or dewatering; this would necessitate a hydrogeological assessment and potential mitigation. The AOS was cancelled, with an explanation given that the sites were not of sufficient size, but this may possibly be referent to the resource size. It is not clear.

**AOS I**, Land to the East of South Runcion. The AOS covers 47 hectares of settled grade 3 farmland and plantations just to the north of AOS F, lying between the A10 and A134. It is 16 km from the Leziate plant and mineral transfer would likely be by road. Heritage buildings would require a Heritage Statement and a mitigation plan. Screening of open views of the site would also be necessary. A hydrogeological risk assessment and mitigation would be required for extraction below the water table and/or dewatering. A single County Wildlife Site is over 600 m distant. Again, the technical reasons behind the deselection of AOS I appear not to have been revealed in the Plan documents. No size of the resource has been published

**AOS J**, Land to the east of Tottenhill, covers 23 acres of grade 4 agricultural land between the A10 and A134, close to the western boundary of AOS E. Tottenhill village lies 300m to the west. The site lies 15 km by road from the Leziate factory. There is a grade 1-listed church within 325m, and the site is 1.2km from Wormegay motte and bailey castle and 1.6m from Wormegay Priory Scheduled Monument. An archaeological plan would be required. Two County wildlife sites are within 300m of the site. No clear potentially unmitigatable factors are reported, and the deselection of AOS J is essentially unexplained. No size of the resource has been published

It is important to assess the background of this Single-issue Silica Sand Site-specific Allocations Process. N.C.C published cabinet reports reveal that the sole confirmed silica sand sites in the period 2010 and 2022 were SIL 01 and MIN 40, that were first allocated around 20015/16. MIN 39 in Ashwicken was also selected only for landowner consent to be withdrawn. It is difficult to view the process as 'sound' or "effective". None of the seven sites proposed during the present Site-specific Allocations programme have made it through the Plan-led selection.

An explanatory statement is made in the NMWLP Publication, May 2022, p.76, "*Whilst site specific allocations have been made for 4.1 million tonnes of silica sand resource, they are*

*not sufficient on their own to meet the forecast need. There are no other specific sites or preferred areas suitable to allocate for silica sand extraction primarily due to the proximity of RAF Marham to large parts of the silica sand resource and the concerns raised by the Defence Infrastructure Organisation about the bird-strike risks to aircraft from the creation of large areas of open water following mineral extraction.....In addition, large parts of the silica sand resource are within the setting of the Norfolk Coast AONB, the impact risk zone for The Wash SSSI or other SSSIs, the hydrogeological catchment around Roydon Common and Dersingham Bog SSSI, the setting of designated heritage assets, on designated Open Access Land, on grade 1 and 2 Best and Most Versatile agricultural land and in proximity to sensitive receptors such as residential dwellings. The remaining areas of the silica sand resource would be too fragmentary to form an appropriately sized area within which to find a potentially viable silica sand extraction site”*

In a June 14, 2013 Report to Cabinet Member For Decision, we read, “No replacement sites for silica sand extraction are proposed to be allocated because none of the alternative sites or areas of research proposed are considered to be appropriate to allocate due to their proximity to Roydon Common SSSI and, in line with the precautionary principle, they cannot be allocated.” At this time, sites in East Winch, Ashwicken, and Roydon were being evaluated. Bird strike risks, particularly at RAF Marham, the environmental impact, and major amenity concerns also may be difficult to ameliorate. However, there is a hierarchy of statutorily-defined factors involved in the decision-making over silica sand site selection, and many are capable of being satisfactorily mitigated on a case-by-case basis. Ultimately, Sibelco UK or other mineral operatives must be convinced that they have an economic case to proceed, given the (alleged) national statutory undertaking to provide the bulk of their local needs.

It is clear from data in released cabinet papers, that Sibelco UK are largely concerned with production as there are no AOS that they do not support. The preoccupation in the single-issue search from 2016 on SIL 02 and AOS-E close to RAF Marham (NMWLP Development Management Policy 7) was always likely to be problematic as most of the fully refined options were from the same basket. There has been concern at cabinet level (June 14, 2013) that the long-term extraction site shortfall should not lead to the presumption in favour of sustainable development taking precedence over the Local Plan assessment. There is now concern that the proposed bypassing of the established procedures by directly referring these judgements to the District Planning Processes, where the opportunity for public contribution is curtailed, and where perhaps the County authorities hold more sway, is clearly poor policy.

- (3). I can only look at the silica sand procedures for the selection of extraction sites from an external perspective. The sight of a process that for at least a decade has continued to adopt an unsuccessful procedure while expecting different results is discouraging. Given the ‘fixed’ mineral requirement from an area already ravaged by governmental obligations, the possibility of expedient governance becomes more problematic. I propose the need for an **independent consultation** to devise a more coherent procedural structure, consonant with NPPF paragraph 121, which adjures local planning authorities to bring forward land suitable for development. The more issues that can be resolved at the pre-application stage (NPPF,



paragraph 41) the better, and perhaps this can more closely engage Sibelco UK. The public interests need to be **involved at an early stage**, probably by **local public meetings** (including NIMBYs); the **public** are not statutory consultees in the Local Plan Review and are **inadequately represented** in this Local Plan process. Early proactive landowner discussions and the early estimation of the proposed silica sand resource should be enabled as they are also basic factors in the decision-making. The larger the individual areas of search, the more likely that impediments will be found. The recent historical evidence suggests that the silica sand site selection process is not currently fit for purpose. Decisions on applications should be made as quickly as possible (NPPF, paragraph 47).

- (4). A crucial factor in the West Norfolk and northern Brecks landscape that is being largely ignored is the **very high level of landscape scarring associated with old sand mining**, and by current inactive sites and active extraction sites. The Local Plan only considers the latter. It is 'unsound' to disregard facts of local topography. I am not aware that this feature has yet been mapped. I suggest that a **custom map of the extent of all current, recent and historical mining sites in the silica sand extraction region is needed**, with some urgency, to allow informed judgements of site suitability. As an example, a resident of East Winch recently told me that her community felt that it was almost surrounded by old or current mining sites – MIN 40 is proposed right up to the village boundary, and one local post-mining lake had recently been proposed as a private holiday homes development. In Beetley, a sand and gravel site, in contiguity with prior mining sites, is being proposed on a site that is also at the village boundary and interposes somewhat between the two component residential areas of Old Beetley and Beetley village. The Local Plan encourages the use of the site which is adjacent to an active quarry site. The contiguity is undoubtedly an attractive economic and mineral quality option, but the effect of several hundred years of old mining sites also requires consideration on a local and regional level. As the Minerals Planning Guidance, 2014, states, *"the suitability of each proposed site, whether an extension to an existing site, must be considered on its individual merits, taking into account issues such as: need for the specific material; economic considerations...; positive and negative environmental impacts...; and the cumulative impacts of proposals in the area."* Almost all the recent crop of candidate sites were closely related to old or current mining sites.
- (5). The Statement of Community Involvement (SCI), Section 2.1.6 inhibits public comment to the two brief *"consultation"* periods. The section states that public comments and (officer-) comments will be maintained on the County Councils e-planning website. This happened for the first 2018 consultation, but it took 2.5 years for the second 2019 consultation statements to be published, at *"five minutes to midnight,"* and there is no institutional response and no evidence that they have been taken into consideration (e.g. N.C.C Cabinet document, December 10, 2019, M&WLPR - Preferred Options Consultation) in contravention of undertakings under the Statement of Community Involvement. The Local Plan procedures have taken 3 years (including COVID) after the Preferred Options Consultation. Section 2.1.5.4. of the S.C.I. determined that a consultation deadline does not mean that *"comments received after the deadline will be ignored. The deadline is the date by which we guarantee we will have not determined the application, and so any comments made in that time will be considered. If you submit comments after the deadline date, but before we have determined the application, we will consider your comments."* In fact,

N.C.C. insisted on the 'consultation deadline date' as the cut-off point. As the Statement of Community Involvement provides much of the structure of the Local Plan processes, it is important that the County Council modify this foundation document to provide full and systematic assessment of public views, including public meetings involving all adjacent village and town communities at an early opportunity. This will be discussed further in a separate review of AOS-E experience. The SCI is presently due for revision under the Norfolk Minerals and Waste Development Plan, October 2022.

- (6). The recent history of silica sand extraction applications shows a marked tendency for sites as close as possible to the Sibelco UK Leziate processing plant, inadvertently selecting for local blight. It appears that Sibelco is driving this process without a great deal of advice from the County Minerals authority. It is apparent that some sites, such as AOS A, SIL02, and AOS E always had considerable headwinds, yet they were the main sites proposed by the MPA in the last few years. Appreciable efforts had to be made by the public and by several of the nominated consultees to address the SSSI, AONB, environmental and hydrogeological risks, the bird-strike risk close to RAF Marham, and of Shouldham Warren being the rural recreational jewel of West Norfolk. This considerable cumulative effort was in effect only necessary because of programmatic shortfalls. If the statement is true that *"areas of search are no longer considered to be a deliverable method to use to plan for future provision in Norfolk"* as stated in the May 25, 2022 presentation to the N.C.C. Infrastructure and Development Select Committee, then I respectfully suggest that Minerals and Waste at least owe the process a comprehensive explanation of their thinking and its implications. The NMW Local Plan, 2022, document does not amplify this statement. Is it that proposed AOS are too large to work in this locality, and that the emphasis should be re-addressed to identifying Specific Sites, as defined by National Planning Guidance MP 2.10 - which will require much more investigative preparation and delayed applications by Sibelco UK? This does not justify the ill-judged bypassing of the public accountability processes in the National Plan. If site selection is as difficult as claimed, is the current Norfolk silica sand excavation requirement still logical, or should it be reduced, and by how much? Has the full extent of the available silica sand reserve actually been comprehensively evaluated? Indeed, might the present putative impasse be the result of planning to keep sites close to the Leziate processing plant? There does need to be discussion as to whether exceptional circumstances can overcome the major restrictive parameters, and under what local circumstances, if any? The national mineral guidelines (NPPF paragraphs 199 to 208 may be difficult to apply. However, paragraph 207 does state, *"not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance... (the site) should be treated either as substantial harm under paragraph 201 or less than substantial harm under paragraph 202, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage site as a whole."*
- (7). And finally, what are the reasons, compromises, and the disadvantages of invoking the bypassing of a significant part of the Local Plan, by short-cutting the process, leaving all deliberations with the Planning Process when constitutional problems may still remain, including deficits in public accountability? I suggest that this very late procedural change



undermines the democratic process. I maintain this is an “unsound” development and is not “legally compliant.”

- (8). The archaeological and hydrogeological assessments are perhaps ripe for more definitive scientific application.

The issues of Public Representation in the Local Plan process, the unconsidered vulnerability of West Norfolk to the superimposition of unbridled Silica Sand working, issues with the Norfolk Silica Sand Safeguarding Programme, and the potential contribution of Glass Recycling as a substitute input in the silica sand economy and the County dedication to planting trees for climate amelioration will be the subject of other submissions.